



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Agenda CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
G. A. (Andy) Morris, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, October 10, 2012

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council Member Andy Morris, Ward 4

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

PROCLAMATIONS:

20120866 Proclamation - Fire Prevention Month

Presentation of a Proclamation to Lieutenant Grant Pearson , proclaiming October 7-13, 2012 as "Have Two Ways Out" week in the city of Marietta.

20120978 Proclamation - Diaper Day

Presentation of a Proclamation declaring October 29, 2012 as "Cobb Diaper Day" in the City of Marietta. The Cobb Diaper Day Committee is committed to asking the business community, concerned citizens, and non-profit organizations, to collect diapers from employees, members and friends throughout the month of October. The single act of donating diapers on Monday, October 29, 2012 at 5:00 PM at Glover Park, on the Marietta Square can help hundreds of families in Cobb County.

20120990 Information Technology (IT) Department Wins Top Performer Award

Ronnie Barrett, IT Director and Jeremy Waite, IT Systems Manager, accept award for the *MyMarietta* mobile app given by the Technology Association of Georgia (TAG) - Government Technology Society. The contest held September 18, 2012, was judged using the following criteria: creativity and innovation (30%), business value for government and citizens (40%), usability and performance (30%). The city of Marietta received the Top Performer award.

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:**SCHEDULED APPEARANCES:****20120961 Scheduled Appearance - Kristen Picken**

Resident at 413 Talcott Circle (Ward 4). Speaking to council about "backyard poultry."

UNSCHEDULED APPEARANCES:**CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

MINUTES:*** 20120945 Special Meeting - September 10, 2012**

Review and approval of the September 10, 2012 special meeting minutes.

*** 20120946 Regular Meeting - September 12, 2012**

Review and approval of the September 12, 2012 regular meeting minutes.

MAYOR'S APPOINTMENTS:**CITY COUNCIL APPOINTMENTS:**

* **20120880 Marietta Historic Board of Review Appointment**

Appointment of Johnny Sinclair to the Marietta Historic Board of Review for the City Council At Large Appointment.

* **20120820 Board of Lights and Water Appointment**

Appointment of Michael G. Wilson to the Board of Lights and Water (Resident Post) for a term of four (4) years, beginning October 11, 2012 and expiring October 10, 2016.

ORDINANCES:

* **20120859 Z2012-07 Ray Worden 361/363 Campbell Hill Street**

Z2012-07 [REZONING] RAY WORDEN requests rezoning for a portion of the property located in Land Lot 11470, District 16, Parcel 0390, 2nd Section, Marietta, Cobb County, Georgia and being known as 361/363 Campbell Hill Street from NRC (Neighborhood Retail Commercial) to NRC (Neighborhood Retail Commercial) with an additional use so the property may be used as a residence(duplex). Ward 4.

The Planning Commission recommends approval as stipulated. Vote: 6 – 0 – 0

Motion: Mr. Thompson made a motion to approve as submitted, seconded by Mr. Carter.

Stipulations: If property is redeveloped the zoning reverts back to NRC (Neighborhood Retail Commercial).

PUBLIC HEARING (All parties sworn in.)

Council members Goldstein and Sinclair abstaining.

20120901 Z2012-08 Russell Mullins (for 591 Colonial Circle, LLC) 591 Colonial Circle

Z2012-08 [REZONING] 591 COLONIAL CIRCLE, LLC requests rezoning for property located in Land Lot 12870, District 16, Parcel 0560, 2nd Section, Marietta, Cobb County, Georgia and being known as 591 Colonial Circle from LRO (Low Rise Office) to LRO (Low Rise Office) with an additional use so the property may be used as a residence (multi-family). Ward 1.

The Planning Commission recommends approval as stipulated. Vote: 6 – 0 – 0

Motion: Mr. Thompson made a motion to approve, seconded by Mr. Carter.

Stipulations: If property is redeveloped the zoning reverts back to LRO (Low Rise Office).

PUBLIC HEARING (All parties sworn in.)

*** 20120814 CA2012-07 Amendment to the Comprehensive Development Code regarding Fences and Walls, Division 710.04 Fences and Walls**

CA2012-07 [Code Amendment] Proposal to amend the Comprehensive Development Code. Proposal to amend the Comprehensive Development Code of the City of Marietta, Division 710.04, Fences and Walls.

The Planning Commission recommends approval. Vote: 5 – 1 – 0

Motion: Mr. Diffley made a motion to accept the Ordinance as printed, seconded by Mr. Waters, with Mr. Schupp opposed.

Stipulations: N/A

PUBLIC HEARING (All parties sworn in.)

- * **20120854** **CA2012-08 Amendment to the Comprehensive Development Code regarding Division 708, District Standards and Permitted Uses, by amending Section 708.29, RRX, Railroads and railroad crossings; and Division 714, Signs, Paragraph 714.04(F), General Regulations, Paragraph F.**

CA2012-08 [CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta, Division 708, District Standards and Permitted Uses, by amending Section 708.29, RRX, Railroads and railroad crossings; and Division 714, Signs, Paragraph 714.04 (F), General Regulations , Paragraph F.

The Planning Commission recommends approval. Vote: 6 – 0 – 0

Motion: Mr. Thompson made a motion to accept the code amendment as presented, seconded by Mr. Carter.

Stipulations: N/A

PUBLIC HEARING (All parties sworn in.)

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

- * **20121005** **Denial of Claim**

Denial of the claim of Mike Nelson.

Council member Sinclair abstaining.

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

* **20120923 Amendment to Urban Redevelopment Plan and Opportunity Zone Map**

Approval of a Resolution adopting the October 2012 Amendment to the Amended April 2011/June 2009 Urban Redevelopment Plan and
Authorization to submit an application to Georgia Department of Community Affairs to expand the boundaries of the Opportunity Zone One to include eligible city parcels property south of Delk Road, east of Cobb Parkway, north of Terrell Mill Road and west of Interstate 75.

PUBLIC HEARING REQUIRED

* **20120927 FFY'2013 CDBG Final Statement Projects List**

Approval of a Resolution authorizing the submittal of the City's FFY'2013 CDBG Final Statement Projects List to Cobb County for inclusion in their submittal to the U.S. Department of Housing and Urban Development (HUD); and approval of the use of \$396,185 of CDBG FFY'2013 funds the City will receive from HUD.

2. Finance/Investment: Annette Lewis, Chairperson

* **20120904 Donation to the Tree Preservation Fund by Team Ford**

Approval of an Ordinance amending the Fiscal Year 2013 Tree Preservation Fund budget to receive and appropriate a donation in the amount of \$1,265.00 from Team Ford.

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

* **20110790 Tree Protection and Landscaping Ordinance**

Motion to authorize advertisement of proposed amendments to the City's Tree Protection and Landscaping Ordinance (Section 712.08).

* **20120908 A-Frame Signs**

Motion to authorize advertisement of proposed revisions to proposed revisions to the Comprehensive Development Code of the City of Marietta, Division 714, Signs, paragraph 714.03, Signs exempt from permit regulations.

* **20120915 Revised Detail Plan for Meeting Park (Food Truck Events)**

Motion to approve a revision to the Detailed Plan for Meeting Park allowing a food truck event with the following conditions:

1. No sale or offer for sale shall be made by any licensee between 10:00 p.m. and 6:30 a.m.
2. The parking of food trucks shall be limited to the locations shown on the exhibit for Meeting Park Phase 1, dated 08-11-08, and signed by Matt Teague (Walton Communities) and Greg Smith (The Smith Group.)

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

* **20120921 Farmer's Market**

Motion approving closure of Mill St. between Church St/W. Park Sq. and the railroad tracks Saturday mornings from November 24, 2012 to December 22, 2012, during the hours of 5:30 a.m. to 1 p.m. for the purposes of conducting a Holiday Edition of the Farmers Market. The market will operate between the hours of 9 a.m. and noon.

* **20120922 Laurel Park Tennis Center Improvements**

Motion to approve bidding and award of construction services for Laurel Park Tennis Center to include shade structures, hardscape/sidewalk, irrigation repairs, landscape improvements, and materials and equipment necessary to complete the project to be funded from the 2009 parks bond in the category "Improvements to Existing Parks" - specifically the line item for Laurel Park - provided costs do not exceed the available balance on that line item.

* **20120984 Acquisition of Property**

Motion to approve a Contract for Sale between the City of Marietta and the Marietta Redevelopment Corporation (MRC) for the following property contingent on a satisfactory Phase I Environmental Report:

136-138 Hedges Street, Marietta, GA 30008, in exchange for \$25,000.

144-146 Hedges Street, Marietta, GA 30008, in exchange for \$25,000.

141-143 W. Dixie Avenue, Marietta, GA 30008, in exchange for \$25,000.

149-151 W. Dixie Avenue, Marietta, GA 30008, in exchange for \$25,000.

5. Personnel/Insurance: G. A. (Andy) Morris, Chairperson

6. Public Safety Committee: Anthony Coleman, Chairperson**7. Public Works Committee: Jim King, Chairperson***** 20120913 Request to acquire unimproved right-of-way**

Motion authorizing advertisement for a public hearing to be held on regularly scheduled November City Council Meeting regarding the closure, abandonment, rezoning and sale of unimproved right of way between 320 and 340 Lockheed Avenue.

APPEARANCES:**OTHER BUSINESS:***** 20120936 Civil Service Board Election - Post 2**

Motion to approve the certified Uncontested Election results for the Marietta Civil Service Board Post 2 vacancy, electing Edgar Darden Borders, II for a term of three years, effective January 1, 2013 and expiring on December 31, 2016.

*** 20120942 NLC Annual Congress of Cities Business Meeting**

Motion to appoint Philip M. Goldstein as voting delegate and Johnny Sinclair as alternate voting delegate for the National League of Cities (NLC) Congress of Cities' Annual Business Meeting, which will be held Saturday, December 1, 2012 in Boston, MA.

20120987 Redistricting Map

Motion authorizing the commencement of the legal process to amend the Ordinances and Charter of the City of Marietta related to the ward map of the City of Marietta in accordance with O.C.G.A. § 36-35-3 and other applicable laws with Public Hearings to be held on such matter at the regular City Council agenda on Wednesday, November 14, 2012 and the regular City Council agenda on Wednesday, December 12, 2012. The City Attorney and staff are directed to carry out all legal requirements related thereto.

20121003 Elimination of Energy Tax

Resolution of the City Council of the City of Marietta to not approve the tax on energy used in manufacturing under the structure of HB386.

20120142 V2012-12 Michael McDonald - Pavilion Development 2195 Cobb Parkway South

V2012-12 [VARIANCE] MICHAEL MCDONALD (PAVILION DEVELOPMENT) request variance for property located in Land Lot 08050, District 17, Parcel 0160 and being known as 2195 Cobb Parkway South. Variance to allow a general advertising sign outside of the area within 100 feet of the right of way of Interstate 75.; Variance to waive the requirement that a general advertising sign be regulated as a principal use; Variance to allow a general advertising sign to be located within 1,000 foot radius of another general advertising sign; Variance to reduce the side setback for a general advertising sign support structure from 15' to 11'; Variance to reduce the side setback for a general advertising sign face from 11.25' to 7'; Variance to reduce the front setback for a general advertising sign face from 30' to 17'; Variance to allow a general advertising sign be located on a lot upon which a building and signage is located; Variance to allow a general advertising sign be located closer to a permanent structure than the distance that is equal to the height of the sign. Ward 1.

This item was tabled at the March 7, 2012, April 11, 2012, May 9, 2012, June 13, 2012 and September 12, 2012, City Council meetings.

20120788 V2012-31 MRW Properties 313 Marble Mill Road

V2012-31 [VARIANCE] MRW PROPERTIES request variance for property located in Land Lot 10050, District 16, Parcel 0280 and being known as 313 Marble Mill Road. Variance to waive all tree protection and landscaping requirements; Variance to allow a structure to use metal siding on a façade facing a roadway. Ward 5.

This item was tabled from the September 12, 2012, City Council Meeting.

20120902 V2012-40 Mountain Motorsports, LLC 780 Cobb Parkway South

V2012-40 [VARIANCE] MOUNTAIN MOTORSPORTS, LLC request variance for property located in Land Lot 05730, District 17, Parcel 0070 and being known as 780 Cobb Parkway South. Variance to reduce the required number of street trees from 5 to 3. Ward 1.

20120903 V2012-41 Erik Juliano 150 Cobb Parkway South

V2012-41 [VARIANCE] ERIK JULIANO request variances for property located in Land Lot 12380, District 16, Parcel 0210 and being known as 150 Cobb Parkway South. The following variances are hereby approved:

1. Variance to allow gas canopy signage on all four sides;
2. Variance to increase the allowable canopy signage on each side from 10 sq. ft. to 18.67 sq. ft.
3. Variance to increase the allowable height for a monument sign in Tier A from 8' to 15';
4. Variance to increase the allowable sign face area in Tier A from 60 sq. ft. to 90 sq. ft.

(Ward 7)

20121009 Settlement Authority

Motion authorizing settlement in the case of Faye S. McBee v. City of Marietta, final terms and conditions subject to the City Attorney, City Manager and Trident Insurance.

Roy Barnes and or his firm have represented Philip Goldstein and or family members in the past and currently represent him in his private capacity.

20121007 187 Wright Street

Motion accepting donation of right of way and temporary easements at 187 Wright Street from Faye McBee, subject to final approval of documents by the City Attorney, Public Works Director and City Manager.

20121008 195 Wright Street

Motion accepting donation of right of way and temporary easements at 195 Wright Street from Wells Fargo Home Mortgage, subject to final approval of documents by the City Attorney, Public Works Director and City Manager.

20121010 26 Powder Springs Street

Motion to authorize the acquisition of property owned by 3G Manning, LLLP on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

Council Member Goldstein Abstaining

20121011 931 Powder Springs Street

Motion authorizing acquisition of easements of 931 Powder Springs Street in exchange for \$1,412.00 from John L. & Sandra Anglin for the purpose of Powder Springs Street Multiuse Trail Improvement Project - Bellmeade Drive to Chestnut Hill Road.

20121012 56 Powder Springs Street

Motion authorizing acquisition of right of way and easement at 56 Powder Springs Street from Gregory D. Adcock for the purpose of constructing the Kennesaw Mountain to Chattahoochee River Trail - North & In-town Section in exchange for \$4,790.00.

Council Member Goldstein Abstaining

20121013 193 & 195 S. Marietta Parkway

Motion authorizing acquisition of right of way and easements at 193 & 195 S. Marietta Parkway from Photo Investment Properties, LLC for the purpose of constructing the Kennesaw Mountain to Chattahoochee River Trail - North & In-town Section in exchange for \$34,070.00 and is inclusive of fence, relocation of the dumpster and parking, and site improvements.

Council Member Goldstein Abstaining

20121014 379 Campbell Hill Street

Motion authorizing acquisition of right of way and easement at 379 Campbell Hill Street from Walter K. Carlisle and Karen K. Carlisle for the purpose of constructing the Kennesaw Mountain to Chattahoochee River Trail - North & In-town Section in exchange for \$2,850.00.

Council Member Goldstein Abstaining

20121015 72 Atlanta Street

Motion to approve exchange of right-of-way in order to accommodate adjustments requested by the owners. The final documents are subject to the approval of the Director of Public Works, the City Manager and the City Attorney.

Council Member Goldstein Abstaining

20121016 1990 Delk Industrial

Motion authorizing accepting the donation of the required Permanent Drainage easement and Temporary Construction easement with stipulations as follows at 1990 Delk Industrial Blvd from Cobalt Industrial REIT for the purpose of constructing the Delk Industrial Boulevard Storm Drainage Improvement Project.

1. The City shall cooperate with Grantor to ensure that the construction schedule reasonably meets the needs of each Tenant's business with regard to access, deliveries and loading;
2. Not interfere with the Tenants' day-to-day business operations;
3. Ensure that access to and use of the building, dock doors, truck court and all parking areas located on Grantor's property remains open and unobstructed at all times;
4. Provide Grantor with the direct telephone number of the City Representative and the Project Representative;
5. Provide Grantor with the direct telephone number of a contact who can take phone calls within 2 hours of construction completion for each day construction occurs, which Grantor will provide to each Tenant, and cause such contact to promptly take all steps necessary to address reasonable concerns raised by any Tenant with respect to access to Grantor's buildings and/or other interference with such Tenant's business;
6. Notify each Tenant prior to commencing any activity that could limit access to the building, dock doors, truck court or parking lots and cooperate with any Tenant whose delivery and/or loading schedule will be affected in order to accommodate such schedule;
7. Cause the Project Manager to provide an available onsite meeting time for Tenants and Owner Representative at the start and end of each day during which Construction Activities will take place on subject property at 1990 Delk Industrial Blvd.; and
8. Leave the Temporary Construction Tract and surrounding areas clean and free of equipment and materials at the end of each day.

* **20120947 BLW Actions of the October 8, 2012**

Review and approval of the October 8, 2012 actions and minutes of the Marietta Board of Lights and Water.

UNSCHEDULED APPEARANCES:

ADJOURNMENT: